

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DAVID LARON TASH,	)	CV F 02 6233 WMW HC
	)	
Petitioner,	)	ORDER DENYING PETITIONER'S MOTION
	)	TO AMEND PETITION AND MOTION TO
v.	)	CLARIFY AND RECONSIDER STAY AND
	)	AMEND PETITION
	)	
	)	[Docs. 43 and 44]
DERRAL G. ADAMS, et al.,	)	
	)	
Respondents.	)	
	)	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(c)(1), the parties have consented to the jurisdiction of the United States Magistrate Judge.

On September 13, 2005, Petitioner filed a Motion to Amend Second Exhausted, Petition to First Petition" and a "Motion to Clarify and Reconsider Motion to Stay and Amend Petition." In these motions Petitioner seeks to have the court reconsider its order of June 5, 2003, denying Petitioner's motion to stay his petition, and also seeks to be allowed to amend his petition now.

In its order of June 5, 2003, the court explained that the claims Petitioner seeks to add to his present petition are barred by the statute of limitations and that Petitioner is not entitled to equitable tolling. Nothing has occurred to change that fact. Accordingly, there is no basis for

1 the court to reconsider its prior order denying Petitioner's earlier request for the court to stay his  
2 petition and allow him to amend it when he had exhausted his state court remedies. There is  
3 similarly no legal basis for the court to now allow Petitioner to amend his petition, as such  
4 amendment would be futile.

5 In his motion to clarify, Petitioner inquires whether the Ninth Circuit's dismissal for lack  
6 of jurisdiction was due to the fact that a district judge had not ruled on Petitioner's motion.  
7 Petitioner is informed that this was not the basis of the Ninth Circuit's finding that it lacked  
8 jurisdiction. As stated above, both parties have consented to having the magistrate judge hear all  
9 matters in this case. Thus, there is no longer a district judge assigned to this case and the  
10 magistrate judge's decisions are final.

11 Based on the foregoing, Petitioner's motions are HEREBY DENIED.

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14 IT IS SO ORDERED.

15 **Dated: November 9, 2005**  
mmkd34

/s/ William M. Wunderlich  
UNITED STATES MAGISTRATE JUDGE